

SETTLEMENTS PROGRAM

Assembly Bill 318, effective January 1, 1998, gives the Director of the Employment Development Department (EDD) authority to settle certain civil employment tax matter disputes that are the subject of protests, appeals, or claims for refund. Provisions of the Settlements Program are set forth in Section 1236 of the California Unemployment Insurance Code (CUIC).

The primary intent of the Settlements Program is to allow employers the opportunity to enter into a Settlement Agreement to avoid the cost of prolonged litigation associated with resolving disputed employment tax matters.

SETTLEMENTS PROCESS

A Settlement is defined as a compromise on the dollar amount of a tax liability, consistent with the reasonable evaluation of the costs and risks associated with the litigation of the issue.

Generally, EDD will consider settlement offers only for cases that are petitioned with the California Unemployment Insurance Appeals Board (CUIAB) or before a civil court as a result of an assessment or denial of claim for refund. A timely petition or claim for refund must have been filed as EDD may only enter into Settlement Agreements for nonfinal tax liabilities. Audits, other cases still in process, and those cases involving fraud or criminal violations will not be accepted for settlement purposes.

When reviewing an offer, EDD will consider the risk of loss for the state **and** the cost of litigation balanced against the benefit of reaching a Settlement Agreement. Issues of fairness, financial hardship, or the survival of the business will be considered to establish a settlement amount, but cannot alone be used as a reason for entering into a Settlement Agreement. Upon approval of the Settlement Offer, EDD and the

employer will enter into a Settlement Agreement. Some Settlement Agreements are subject to approval by an administrative law judge, the CUIAB, or the Attorney General before they can be finalized.

PUBLIC DISCLOSURE

Section 1236 of the CUIC requires a public record for any Settlement Agreement that forgives more than \$500 in total tax and penalties. The public record will remain on file with the Director, EDD, in Sacramento, California.

HOW TO APPLY

To apply for a Settlement Agreement, you must first submit a Settlement Offer. The Settlement Offer must be in writing; however, there is no prescribed format. At a minimum, include the following information in your Settlement Offer:

1. Your California Employer Account number;
2. The specific assessment or the denial of Claim for Refund for which you are offering a settlement, along with information such as a date of assessment or denial of Claim for Refund, amount of liability involved, and period covered;
3. The basis for your settlement offer, including the amount and terms you are offering;
4. An analysis of the risk of loss to the state or a reasonable estimate of the cost of a litigation process which appears excessive and the reason why the offer should be considered; and
5. Name, address, and phone number of an individual authorized to negotiate your Settlement Agreement.

If you believe you qualify, submit a Settlement Offer to:

EDD
Settlements Office, MIC 93
PO Box 826880
Sacramento, CA 94280-0001

If your offer meets the criteria for a Settlement Agreement, you will be contacted by our Legal Section for final negotiation and execution. If your offer does not meet the criteria for a Settlement Agreement, you will receive a letter from the Settlements Office.

The EDD will engage in open and constructive negotiations throughout the entire Settlement process. If an agreement is not reached between EDD and the employer, all information disclosed during the negotiation process will be considered confidential and cannot be used by EDD against the employer.

If you have specific questions regarding EDD's Settlements Program, they may be referred to the Settlements Office at (916) 653-9130 or (916) 654-7162.

Please note: If your disputed employment tax matter is final or the sole issue is the inability to pay, it will not meet the criteria for a Settlement Agreement. However, there are other options available. For information on these options, call the number listed on your most recent Employer Account Statement, DE 2176, related to the liability. If you are unable to resolve the issue and require further assistance, you may contact the EDD's Problem Resolution Office at (916) 654-8957.

Equal Opportunity Employer/Program. Auxiliary services and assistance available to persons with disabilities.